

REMARKS/ARGUMENTS

1. INTRODUCTION

In the present amendment, claims 58-65 have been amended. Accordingly, claims 58-75 are pending in this application, with claims 61, 64, and 71-75 being withdrawn from consideration. Applicants respectfully request further examination and reconsideration of the application in view of the following arguments.

2. AMENDMENT TO THE CLAIMS

Independent claim 58 has been amended to move the “first planar body” from the preamble of the claim into the body of the claim. Accordingly, the claim has also been amended to claim a “wheel support leveler assembly” instead of a “vehicle wheel positional restraint device.” The “first planar body” limitation, now within the body of claim 58, also recites that the lower surface of the first planar body has at least one engaging pocket to receive a projection of a second planar body in a non-interfering manner wherein the first planar body is removable from the second planar body. Support for these amendments can be found throughout the specification and drawings, including paragraphs [0044] – [0046] and Figures 4 and 10. Claim 58 has been further amended to correct for minor typographical errors and to conform antecedent bases. Dependent claims 59 – 64 have been amended to conform antecedent bases with the amendments to claim 58. Applicants submit that these amendments do not add any new matter.

Claim 65 has been amended to recite that the heel portion of the positional restraint body extends from the lower surface of the restraint body and that the heel portion is positionable lateral of the first planar body. Support for these amendments can be found throughout the specification and drawings, including paragraphs [0056]-[0057] and Figures 16-19. Applicants submit that these amendments do not add any new matter.

3. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(A)

Claims 58-60, 62-63 and 65-70 stand rejected as being unpatentable over Blatz (U.S. Pat. No. 5,328,154) in view of Extine (U.S. Pat. No. 4,108,421). Applicants respectfully submit that

the rejection is improper because the Examiner has failed to establish a prima facie case of obviousness with respect to these claims as amended.

“Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case.” MPEP § 2141 (emphasis in original).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

MPEP § 2143. Applicants submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 58-60, 62, 63, and 65-70, as amended, because there is no suggestion or motivation in the art to combine the teachings of Blatz and Extine and because these references fail to teach or suggest all of the claimed limitations, as amended.

Applicants respectfully submit that, at least with respect to claims 58-60, 62, and 63, as amended, one of ordinary skill in the art at the time the invention was made would not have been motivated to combine the teachings of Blatz and Extine, because Extine teaches away from such a combination. “It is improper to combine references where the references teach away from their combination.” MPEP § 2145 X.D.2 (citing *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). Blatz does not teach or suggest a positional restraint body as recited in independent claim 58. Independent claim 58, as amended, also recites:

a first planar body having upper and lower surfaces, said upper surface having at least one projection extending therefrom and said lower surface having at least one engaging pocket to receive a projection of a second planar body in a non-interfering manner wherein said first planar body is removable from said second planar body;

Extine teaches away from an assembly that includes this feature. Extine teaches a “tire engaging member” (34) which is “fixed” to the end of a ramp (26). (Col. 2, lines 13-14). Moreover, Extine teaches use of a single leveling unit (10) which does not cooperate with other “stands.” Extine explains that the leveling unit includes “a wood or plastic stand 12 having studs 14 or other ground-engaging means on its bottom ...” (Col. 1 line 68 – Col. 2., line 1). Insofar as the leveling unit of Extine includes ground-engaging studs, it clearly teaches away from employing the device with additional ramps or units, since the ground-engaging studs would be inoperable.

In contrast, Applicants’ the positional restraint body in the wheel support leveler assembly of claim 58 cooperates with and is removable from the first planar body; and the first planar body has a lower surface with at least one pocket to receive a projection of a second planar body in a non-interfering manner so that the first planar body is removable from the second planar body. Because there is no suggestion or motivation in the prior art to combine the teachings of Blatz and Extine, Applicants respectfully submit that the rejection of independent claim 58 and dependent claims 59, 60, 62, and 63 under 35 U.S.C. § 103(a) is improper. Accordingly, Applicants respectfully request that the rejection be withdrawn.

Applicants further respectfully submit that the rejection of claims 65-70 under 35 U.S.C. § 103(a) is improper because the combination of Blatz and Extine fail to teach or suggest all of the limitations set forth in independent claim 65, as amended. Claim 65 recites that the positional restraint body has a heel portion that extends from the lower surface of the positional restraint body for positioning said heel portion lateral of said first planar body. Neither Blatz nor Extine teach or suggest such an element. Accordingly, Applicants respectfully submit that the rejection of independent claim 65 and dependent claims 66-70 under 35 U.S.C. § 103(a) is improper. Accordingly, Applicants respectfully request that the rejection be withdrawn.

4. CONCLUSION

A genuine effort to resolve all issues has been made. For at least the above cited reasons, all claims pending in this Application are now believed to be allowable. Applicants respectfully request that any questions or concerns be directed to Applicants' undersigned attorney.

Respectfully submitted,

/Adam B. Strauss/
Adam B. Strauss
Reg. No. 43,167
DYKEMA GOSSETT PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0764
ipmail@dykema.com
Customer No. 26127
Attorney for Applicant(s)

Date: November 21, 2006